

REMARKS

The Office Action mailed May 14, 2009 has been considered and entry of this Amendment and reconsideration of the above-identified application, as amended, in view of the following remarks, is respectfully requested

Claims 1-11 are pending and stand rejected.

Claims 1, 6 and 7 are independent claims.

Claims 1, 6 and 7 have been amended.

Claims 1-11 stand rejected under 35 USC 103(a) as being unpatentable over Fisher (USP no. 7, 133, 068) in view of Tanaka (USP no. 6,233,004).

With regard to the rejection of claims 1-11 under 35 USC 103(a) as being unpatentable over Fisher in view of Tanaka, the Office Action asserts that the applicant acknowledges on page 6 that Fisher discloses that "a warning message is provided" to a user when a "calculated overlap would cause there to be a lack of coverage," i.e., a gap. Since Fisher teaches providing a warning when a gap is detected, Fisher explicitly discloses a teaching of monitoring the pictures taken to determine whether a desired overlap has been achieved.

In arguing that the subject matter recited in claims is not anticipated by the teaching of Fisher, it was the applicant's intention to note the distinguish that Fisher is related to taking a video picture stream and extracting still pictures from the stream. The still pictures that are selected to be extracted are based on having an overlap region between the extracted pictures.

However, all of the still pictures of the video image that are to be extracted have already been saved. . Fisher must teach that all the pictures are saves because if the device of Fisher were to limit the pictures being stored based on an amount of overlap of pictures, then the playback of the video image would not be consistent with the video image that was captured.

Hence, Fisher fails to teach the claim element of "a next one of the pictures in the sequence is selected for being stored in the memory based on an amount of overlap

regarding a picture content with a previous one of the pictures stored in the memory," as is recited in the claims

Furthermore, Fisher discloses that the video image may be composed of a plurality of still pictures (see Figures 6 and 7). With reference to Figure 7, Fisher discloses that based on a scanning speed may generate a plurality of still frames at a specific time interval that include an overlap region between adjacent still frames. The still frames then may be applied to a stitching algorithm which responsively combines the series of still frames into a single composite still image (see col.7, lines 45-47). Fisher further discloses that a scanning manager 416 may generate each of the still frames at a specific time interval that depends upon the scan speed of scanning system 510 and the length of still frames 614 (see col. 7, lines 49-51). Or the scanning manager 416 may obtain scan motion data including one or more scan speeds, from motion sensor 516. Scanning manager 416 may then calculate the specific time interval and physical location at which the video camera captures the particular video data corresponding to each of the still frames. Scanning manager 416 may then sequentially generate each still frame by extracting the appropriate still frame from the video data at the correct time interval. (see col. 7, lines 51-61).

Fisher further discloses each frame preferably has a predetermined still frame length, and depending upon the type of video camera the stitching software program may calculate an overlap length for the foregoing overlap regions according to a known formula. (see col. 8, lines 12-17). Fisher further discloses that a user may also preferably select a time interval at which the scanning manager sequentially generates new still images. In an embodiment the scanning manager may generate an error warning if a time interval is selected to produce still images that are aligned in excess of a minimum adjacent still image overlap value. (see col. 8, lines 31-38). The user may thus select a shorter time interval for generating still frames to produce adjacent still images with greater overlap regions. (see col. 8, lines 38-41). Fisher, however, is silent with regard to the amount of overlap that is needed.

In addition, Fisher further discloses in Figure 8 the process wherein an initial still frame is captured (step 826) and then at a predetermined time interval, based on a scanning speed, the scanning manager may create a new current still frame from the

captured video data (step 828). In step 832, an overlap region between the foregoing still frame and an immediately preceding still frame. (see col. 8, lines 26-40) is processed.

Hence, Fisher fails to disclose selecting a next picture to be stored based on a desired amount of overlap. Rather Fisher discloses system that extracts pictures from stored pictures at a predetermined time, which is based on a scan speed. The scan speed may be selected to achieve an overlap between adjacent pictures. But there is no criteria regarding the overlap. Only that one should exist.

Tanaka discloses an image processing apparatus that detects corresponding pixels in object images captured from a plurality of viewpoints and interpolates object images that are supposed to be seen from viewpoints other than the plurality of viewpoints on the basis of the detected corresponding pixels. Figure 2 illustrates a plurality of image capturing devices 22 providing images of object 21 from different viewpoints. Tanaka further discloses different embodiments of the invention wherein pixel values are interpolated based on the input pixel values (see col. 8, lines 63-67, first embodiment determines average value of input pixels; second embodiment determines an average of neighboring input pixel values).

Tanaka teaches that it is possible to generate a great number of interpolations images between the input images taken from the photo-taking viewpoints at the fine intervals so as to fill the gap between them. (see col. 17, line 66-col. 18, line 2).

However, the gap referred to by Tanaka represents a gap in the viewing angles and not adjacent (or in the case of Tanaka the same) still picture.

Hence, even if the teachings of Tanaka could be combined with that of Fisher, the combination would not disclose claim element of "interpolating pixel data from edges of said area of said composite picture lacking coverage," as is recited in the claims. Nor does the combination of Fisher and Tanaka disclose the element of providing direction to the camera.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest

all the claim limitations

In this case, a *prima facie* case of obviousness has not been met, as the combination of the cited references fails to disclose a material element recited in the claims.

However, notwithstanding the argument presented herein, in the interest of advancing the prosecution of this application, independent claims 1, 6 and 7 have been amended to present the invention claimed in better form. More specifically, the claims have been amended to recite the element of interpolating pixels along the edge of an uncovered area and when the uncovered area cannot be filled through interpolation, directing the camera to a position to take an extra picture of the uncovered area and incorporating the extra picture into the composite image. No new matter has been added. Support for the amendment may be found at least on page 6, line 34-page 7, line 9 and the processing shown in Figure 3, element 218, 222.

Neither Fisher nor Tanaka discloses providing directions to position the camera to take an extra picture as is recited in the claims.

Applicant submits that, for the amendments made to the claims and for the remarks made herein, the rejection of each of the independent claims has been overcome and respectfully requests that the rejections be withdrawn.

With regard to the remaining claims, each of these claims depends from one of the independent claims, and, hence, is also not unpatentable over Fisher and Tanaka by virtue of its dependency upon an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the claims are in allowable form and the issuance of a Notice of Allowance is respectfully requested.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or point of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is

conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has elected to amend the claims solely to expedite the prosecution of this matter. Applicant expressly reserves the right to re-prosecute the subject matter recited in the claims prior to this Amendment in one or more continuing application during the pendency of the instant application.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at the telephone given below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,

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